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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,009	04/26/2002	Victor B. Kley	020921-00070US	2617

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EXAMINER

NGUYEN, KIET TUAN

ART UNIT PAPER NUMBER

2881

DATE MAILED: 06/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/079,009

Applicant(s)

K. Lee

Examiner

K. MCVEN

Group Art Unit

2881

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 30 days MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 04-26-02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-2, 4, 6, 8-11, 14-16, 18, 20-23, 26-27, 29, 31, 33-36 and 39-49 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-2, 4, 6, 8-11, 14-16, 18, 20-23, 26-27, 29, 31, 33-36 and 39-49 are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Restriction/Election

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-2, 4, 6, 8-11, 14-16, 18, 20-23, 26-27, 29, 31 and 33-36, drawn to a method using a probe for measuring a sample in a scanning probe microscope, classified in class 250, subclass 307.
- II. Claims 39-43, drawn to an illumination system for an opaque or optically limited or blocked stage, classified in class 156, subclass 121.
- III. Claim 44, drawn to a process for nanomaching a tip or tool, classified in class 438, subclass 478.
- IV. Claims 45-47, drawn to a nanomaching system using a tip or tool for measuring a sample, classified in class 250, subclass 306.
- V. Claims 48-49, drawn to a nanomaching system using a tip or tool for cutting the target volume of a sample, classified in class 250, subclass 492.2.

The inventions are distinct, each from the other because:

Inventions I, II, III, IV and V are distinct, each of the inventions I, II, III, IV and V recites the limitations not recited in the other invention. The differing limitations make the inventions I, II, III, IV and V patentably distinct from one another, i.e., a reference that anticipates or makes obvious one of the inventions I, II, III, IV and V would not by itself anticipate or make obvious the other invention.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

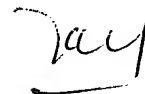
A telephone call was made to David N. Slone on 05-27-03 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner *Kiet T. Nguyen* whose telephone number is (703) 308-4855.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9318.

K.T.N/Primary
June 7, 2003



KIET T. NGUYEN
PRIMARY EXAMINER